

DOLL AMIR & ELEY LLP
HUNTER R. ELEY (SBN 224321)
heley@dollamir.com
CHELSEA L. DIAZ (SBN 271859)
cdiaz@dollamir.com
1888 Century Park East, Suite 1850
Los Angeles, California 90067
Tel: 310.557.9100
Fax: 310.557.9101

Attorneys for Defendant
CAPITAL ONE BANK (USA), N.A.
Erroneously sued as Capital One, National Association

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

TERRY CROY,

Plaintiff,

v.

EXPERIAN INFORMATION
SOLUTIONS, INC.; CAPITAL ONE,
NATIONAL ASSOCIATION;
KEYBANK, NATIONAL
ASSOCIATION and DOES 1
THROUGH 100, inclusive,

Defendants.

Case No.

**DEFENDANT CAPITAL ONE
BANK (USA), N.A.'S NOTICE OF
REMOVAL OF ACTION TO THE
UNITED STATES DISTRICT
COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA
UNDER 28 U.S.C. § 1441(a) AND 28
U.S.C. §1331 (FEDERAL
QUESTION)**

*[Filed concurrently with Civil Case
Cover Sheet]*

[Santa Clara Superior Court Limited
Jurisdiction Case No.:
1-15-cv-285639]

Complaint Filed: September 15, 2015
Trial Date: None

1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR**
 2 **THE NORTHERN DISTRICT OF CALIFORNIA:**

3 **PLEASE TAKE NOTICE THAT** defendant Capital One Bank (USA), N.A.
 4 (“Capital One”), erroneously sued as “Capital One, National Association,” hereby
 5 invokes this Court’s jurisdiction under the provisions of 28 U.S.C. § 1441(a) and 28
 6 U.S.C. § 1331, and removes this action from state court to federal court pursuant to
 7 28 U.S.C. § 1446(b).

8 **A. JURISDICTION**

9 1. Capital One specifically alleges that this Court has federal question
 10 jurisdiction over this action pursuant to 28 U.S.C. §§ 1441(a) and § 1331 because
 11 Plaintiff Terry Croy (“Plaintiff”) alleges a cause of action arising under the federal
 12 Fair Credit Reporting Act (“FCRA”), codified at 15 U.S.C. §§ 1681 *et seq.*

13 **B. STATEMENT OF THE CASE**

14 2. On September 15, 2015, Plaintiff filed a Complaint in the Superior Court
 15 of the State of California for the County of Santa Clara, designated as Case Number
 16 1-15-cv-285639 (the “Action”). Pursuant to 28 U.S.C. § 1446(a), true and correct
 17 copies of all process, pleadings and orders served on Capital One in this case is
 18 attached hereto as Exhibit A.

19 3. Plaintiff asserts one (1) cause of action in his Complaint against Capital
 20 One, which is a violation of the federal FCRA.

21 **C. BASIS FOR REMOVAL**

22 4. This Court has jurisdiction over this Action pursuant to 28 U.S.C. § 1331
 23 and 28 U.S.C. § 1441(a) because Plaintiff alleges claims arising under the FCRA,
 24 which is a law of the United States.

25 5. Specifically, for example, Plaintiff’s Complaint alleges that Capital One
 26 “violated section 1681s-2 by failing to conduct a reasonable investigation and re-
 27 reporting a misleading and or inaccurate monthly payment, and or listed the accounts
 28 as in collections and or charged off rather than discharged in Bankruptcy.” *See* Ex. A,

1 Complaint, ¶ 17. Therefore, adjudication of Plaintiff's Complaint requires an analysis
 2 and construction of federal law. Thus, this Action is one which may be removed to
 3 this Court by Capital One pursuant to 28 U.S.C. § 1441(a) and § 1331 because this
 4 Court would have had original jurisdiction founded on Plaintiff's claim arising under
 5 the FCRA.

6 **D. ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN**
 7 **SATISFIED.**

8 6. Removal of this action is timely. Capital One was served with the
 9 Complaint in this Action on September 18, 2015. Therefore, this Notice of Removal
 10 is "filed within thirty [30] days after receipt by the defendant . . . of a copy of
 11 [Plaintiff's Summons and Complaint]" in accordance with the time period mandated
 12 by 28 U.S.C. §1446(b).

13 7. According to the Santa Clara Superior Court's register of actions found
 14 online for the Action, none of the co-defendants have been served thus far and,
 15 therefore, consent to removal from the co-defendants is not required at this time.
 16 Attached hereto as Exhibit B is a true and correct copy of the register of actions for
 17 the Action, which was printed from the Court's website on October 8, 2015.

18 8. Venue lies in the United States District Court for the Northern District of
 19 California pursuant to 28 U.S.C. §1446(a) because the Action was filed in this
 20 District.

21 9. As stated above, pursuant to 28 U.S.C. § 1446(a), true and correct copies
 22 of all process, pleadings and orders received by Capital One in the Action are
 23 attached hereto as Exhibit A.

24 10. Written notice of the filing of this Notice of Removal will be promptly
 25 served upon Plaintiff. Capital One will also promptly file a copy of this Notice with
 26 the Clerk of the Superior Court of California, County of Santa Clara.

27 ///

28 ///

1 **WHEREFORE** Capital One prays that the above Action now pending against
2 it in the Superior Court of the State of California, County of Santa Clara, be removed
3 therefrom to this Court.

4
5 DATED: October 8, 2015

DOLL AMIR & ELEY LLP

6
7 By: /s/ Chelsea L. Diaz
8 HUNTER R. ELEY
9 CHELSEA L. DIAZ
Attorneys for Defendant,
CAPITAL ONE BANK (USA), N.A.

DOLL AMIR & ELEY LLP